

REFERENCE TITLE: **insurance; fraud unit**

State of Arizona
House of Representatives
Forty-ninth Legislature
First Regular Session
2009

HB 2025

Introduced by
Representative Kavanagh

AN ACT

AMENDING SECTION 20-466, ARIZONA REVISED STATUTES; RELATING TO INSURANCE FRAUD.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 20-466, Arizona Revised Statutes, is amended to
3 read:

4 20-466. Fraud unit; peace officer status; powers; information
5 sharing duty of insurers

6 A. A fraud unit is established in the department of insurance.

7 B. The fraud unit shall work in conjunction with the department of
8 public safety.

9 C. The director may investigate any act or practice of fraud
10 prohibited by section 20-466.01 and any other act or practice of fraud
11 against an insurer or entity licensed under this title. The director shall
12 administer the fraud unit.

13 D. The director may employ investigators for the fraud unit. A fraud
14 unit investigator has and shall exercise the law enforcement powers of a
15 peace officer of this state but only while acting in the course and scope of
16 employment for the department. The director shall adopt guidelines for the
17 conduct of investigations that are substantially similar to the investigative
18 policy and procedural guidelines of the department of public safety for peace
19 officers. Fraud unit investigators shall not preempt the authority and
20 jurisdiction of other law enforcement agencies of this state or its political
21 subdivisions. Fraud unit investigators:

22 1. Shall have at least the qualifications prescribed by the Arizona
23 peace officer standards and training board pursuant to section 41-1822.

24 2. Are not eligible to participate in the public safety personnel
25 retirement system established by title 38, chapter 5, article 4 due solely to
26 employment as fraud unit investigators.

27 E. The director may request the submission of papers, documents,
28 reports or other evidence relating to an investigation under this section.
29 The director may issue subpoenas and take other actions pursuant to section
30 20-160. The materials are privileged and confidential until the director
31 completes the investigation. Any documents, materials or other information
32 that is provided to the director pursuant to this section is not subject to
33 discovery or subpoena until opened for public inspection by the director or,
34 after notice and a hearing, a court determines that the director would not be
35 unduly burdened by compliance with the subpoena. The director shall keep the
36 identity of an informant confidential, including any information that might
37 identify the informant, unless the request for information is made by a law
38 enforcement agency, the attorney general or a county attorney for purposes of
39 a criminal investigation or prosecution. The director may use the documents,
40 materials or other information in the furtherance of any regulatory or legal
41 action brought as a part of the director's official duties.

42 F. If the documents, materials or other information the director seeks
43 to obtain by request is located outside this state, the person requested to
44 provide the documents, materials or other information shall arrange for the
45 fraud unit or a representative, including an official of the state in which

1 the documents, materials or other information is located, to examine the
2 documents, materials or other information where it is located. The director
3 may respond to similar requests from other states.

4 G. An insurer that believes a fraudulent claim has been or is being
5 made shall send to the director, on a form prescribed by the director,
6 information relative to the claim including the identity of parties claiming
7 loss or damage as a result of an accident and any other information the fraud
8 unit may require. The director shall review the report and determine if
9 further investigation is necessary. If the director determines that further
10 investigation is necessary, the director may conduct an independent
11 investigation to determine if fraud, deceit or intentional misrepresentation
12 in the submission of the claim exists. If the director is satisfied that
13 fraud, deceit or intentional misrepresentation of any kind has been committed
14 in the submission of a claim, the director may report the violations of the
15 law to the reporting insurer, to the appropriate licensing agency as defined
16 in section 20-466.04 and to the appropriate county attorney or the attorney
17 general for prosecution.

18 H. The director may:

19 1. Share nonpublic documents, materials or other information with
20 other state, federal and international regulatory agencies, with the national
21 association of insurance commissioners and its affiliates and subsidiaries
22 and with state, federal and international law enforcement authorities if the
23 recipient agrees and warrants that it has the authority to maintain the
24 confidentiality and privileged status of the documents, materials or other
25 information.

26 2. Receive documents, materials and other information from the
27 national association of insurance commissioners and its affiliates and
28 subsidiaries and from regulatory and law enforcement officials of other
29 jurisdictions and shall maintain as confidential or privileged any document,
30 material or other information received with notice or the understanding that
31 it is confidential or privileged under the laws of the jurisdiction that is
32 the source of the document, material or other information.

33 3. Enter into agreements that govern the sharing and use of documents,
34 materials and other information and that are consistent with this section.

35 I. A disclosure to or by the director pursuant to this section or as a
36 result of sharing information pursuant to subsection G of this section is not
37 a waiver of any applicable privilege or claim of confidentiality in the
38 documents, materials or other information disclosed or shared.

39 J. **ON OR BEFORE AUGUST 1 OF EACH FISCAL YEAR**, the director shall
40 **annually** assess each insurer as defined in section 20-441, subsection B
41 authorized to transact business in this state up to one thousand fifty
42 dollars, as annually adjusted pursuant to this subsection. **THE ASSESSMENT**
43 **SHALL BE** for the **COSTS OF THE** administration and operation of the fraud unit
44 and the prosecution of fraud pursuant to this section **FOR THE FISCAL YEAR FOR**
45 **WHICH THE MONEY IS BEING ASSESSED, AS ITEMIZED IN THE APPROPRIATION TO THE**

1 DEPARTMENT IN THE ANNUAL APPROPRIATIONS ACT. EACH INSURER SHALL PAY THE
2 ASSESSMENT WITHIN NINETY DAYS AFTER THE DATE OF THE NOTICE OF ASSESSMENT.
3 Monies collected shall be deposited, pursuant to sections 35-146 and 35-147,
4 in the state general fund. The director shall annually revise the assessment
5 amount in such a manner that the revenue derived from the assessment equals
6 ~~at least ninety five per cent but not more than~~ one hundred ~~ten~~ per cent of
7 the appropriated budget of the fraud unit for the prior fiscal year.

8 K. A person, or an officer, employee or agent of the person acting
9 within the scope of employment or agency of that officer, employee or agent,
10 who in good faith files a report or provides other information to the fraud
11 unit pursuant to this section is not subject to civil or criminal liability
12 for reporting that information to the fraud unit.

13 Sec. 2. Assessment in fiscal year 2009-2010

14 In fiscal year 2009-2010 the department of insurance shall assess
15 insurers pursuant to section 20-466, Arizona Revised Statutes, for the
16 operation of the department's insurance fraud unit for both fiscal years
17 2008-2009 and 2009-2010.